

# **EXHIBIT “A”**

COPY

Volume: I  
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UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS

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ERIC SOUVANNAKANE,

Plaintiff, Civil Action

v. No. 0412164MLW

SEARS, ROEBUCK & CO., WILLIAM  
SULLIVAN, RICHARD SPELLMAN,  
BARBARA TAGLIARINO, KEVIN SULLIVAN,  
ALICIA COVIELLO, GARY MANSFIELD,

Defendants.  
----- x

DEPOSITION of ERIC SOUVANNAKANE, a witness  
called by counsel for the Defendants Sears  
Roebuck & Co., William Sullivan, Richard  
Spellman, Barbara Tagliarino, Kevin Sullivan and  
Alicia Coviello taken pursuant to the applicable  
provisions of the Massachusetts Rules of Civil  
Procedure, before Toni F. Beckwith, Registered  
Merit Reporter, CSR No. 111293 and Notary Public  
in and for the Commonwealth of Massachusetts, at  
the Offices of Sugarman, Rogers, Barshak &  
Cohen, P.C., 101 Merrimac Street, Boston,  
Massachusetts, on Wednesday, February 8, 2006,  
commencing at 10:11 a.m.

1 Q. Also, because everything is being  
2 recorded, I'm going to need you to respond  
3 verbally. So you can't shrug or nod your head  
4 because she can't record that if she's writing  
5 down what we're saying. So you have to answer  
6 verbally even if normally you shrug your head to  
7 answer.

8 A. Understood.

9 Q. Can you please state your full name  
10 for the record?

11 A. Eric Souvannakane.

12 Q. Do you have a middle name?

13 A. No.

14 Q. Can you spell your last name?

15 A. S O U V A N N A K A N E.

16 Q. And what is your date of birth?

17 A. October 25, 1982.

18 Q. Where were you born?

19 A. Salem, Massachusetts.

20 Q. Where do you currently reside?

21 A. Where am I living?

22 Q. Yes.

23 A. 12 Eutaw Ave., Lynn, Mass.

24 Q. How long have you lived at 12 Eutaw

1 A. No.

2 Q. Do you have any children?

3 A. I have one daughter.

4 Q. What is her name?

5 A. Zuriah, Z U R I A H.

6 Q. How old is Zuriah?

7 A. One years old.

8 Q. Does she live with you?

9 A. Yes.

10 Q. Does anybody else live with you  
11 besides your daughter?

12 A. The mother of the child.

13 Q. What is her name?

14 A. Sarah.

15 Q. What is Sarah's last name?

16 A. McDonald.

17 Q. Can you spell her last name?

18 A. M C D O N A L D.

19 Q. What is your educational background?

20 A. The automotive industry.

21 Q. Did you go to high school?

22 A. Yes, I did.

23 Q. Did you graduate?

24 A. Yes, I did.

1 Q. Did you go to college or any post high  
2 school?

3 A. No, I haven't.

4 Q. Have you ever done any trainings or  
5 seminars or anything for the automotive work  
6 that you do?

7 A. Yes, I did.

8 Q. What trainings have you done?

9 A. Automotive training, the vocational  
10 building in the high school facility.

11 Q. Is this something you did while you  
12 were in high school?

13 A. Yes.

14 Q. Have you done anything post high  
15 school in terms of trainings for your  
16 profession?

17 A. Jobs, local jobs.

18 Q. But no other educational courses,  
19 seminars, trainings, anything like that?

20 A. No.

21 Q. How long have you been in the  
22 automotive industry?

23 A. About seven years.

24 Q. What year did you graduate high

1 school?

2 A. '02.

3 Q. So you were working in the automotive  
4 industry while you were in high school?

5 A. Yes.

6 Q. What do you do in the automotive  
7 industry?

8 A. Right now?

9 Q. Yes.

10 A. I'm a car salesman right now.

11 Q. Where are you a car salesman?

12 A. Ira Toyota in Danvers.

13 Q. How long have you been employed by Ira  
14 Toyota?

15 A. Since October.

16 Q. October of what year?

17 A. '05.

18 Q. Is that all you do at Ira Toyota, is  
19 sell cars?

20 A. Sales consultant, yeah.

21 Q. Do you make a set salary at Ira Toyota  
22 or do you make a commission?

23 A. Commission. And there is a set  
24 salary.

1 A. Holding.

2 MS. TRAN: I'm going to take a very  
3 brief bathroom break.

4 (Recess taken)

5 BY MS. TRAN:

6 Q. Do you remember when you were hired by  
7 Sears?

8 A. August.

9 Q. Of what year?

10 A. At this point in time, I want to say  
11 '03, '04.

12 Q. So it was either 2003 or 2004?

13 A. Yes.

14 Q. You previously testified that you were  
15 employed by Sears for about a year and a half?

16 A. Year and a couple of months.

17 Q. And were you terminated from Sears in  
18 October of 2003?

19 A. Yes.

20 Q. So then is it accurate to say that you  
21 were hired in August of 2002?

22 A. Sure.

23 Q. Sure, that's correct?

24 A. Yes, correct.

1 Q. And what was your job title at Sears?

2 A. Tire tech and oil lube tech, battery  
3 tech, maintenance tech.

4 Q. Were those titles that you held all at  
5 the same time, or were they titles that you held  
6 separately?

7 A. All at the same time.

8 Q. What did your job responsibilities at  
9 Sears entail?

10 A. Tires, oil changes, batteries.

11 Q. Was it unusual at Sears at that time  
12 for one person to hold that many positions or  
13 was it something that was common?

14 A. I'd say common to me.

15 Q. What do you mean by common to you?

16 A. Something I can handle.

17 Q. Did anybody else hold more than one  
18 position or more than one title?

19 A. Yes.

20 Q. Do a lot of other auto techs hold more  
21 than one title or just a few?

22 A. A few.

23 Q. Do you remember who they were?

24 A. No.



1 Q. Do you remember any of them?

2 A. No.

3 Q. Did you have a set schedule when you  
4 were working at Sears?

5 A. Yes.

6 Q. Did that schedule change during the  
7 course of your employment or was it the same for  
8 the entire time?

9 A. Same for the entire time.

10 Q. What was that schedule?

11 A. I don't remember.

12 Q. Did you work weekends as well as  
13 weekdays?

14 A. Yes.

15 Q. Do you remember if you worked standard  
16 nine to five shifts or if you worked evening  
17 shifts?

18 A. I don't remember. Some -- go ahead.

19 Q. Do you remember how many hours a week  
20 you worked when you were employed by Sears?

21 A. I would say 40. I was full time.

22 Q. An average day at Sears, what kind of  
23 work did you do? I know you said you did oil  
24 changes and changed tires and batteries. But

1 was?

2 A. No. I don't remember.

3 Q. Was he your direct supervisor when you  
4 were first employed?

5 A. Yes.

6 Q. Do you remember about how long you  
7 were employed at Sears when he left?

8 A. I don't remember.

9 Q. Do you remember what Anthony's last  
10 name was?

11 A. No.

12 Q. Do you know who William Sullivan is?

13 A. No.

14 Q. Do you know if he's a Sears employee?

15 A. No.

16 Q. Have you ever heard the name before?

17 A. No.

18 Q. Do you know who Kevin Sullivan is?

19 A. Yes.

20 Q. Who is he?

21 A. A fellow employee, was a fellow  
22 employee.

23 Q. What was his position with Sears?

24 A. Service writer.

1 termination from Sears?

2 A. No. That's after, right? No.

3 Q. Either before or after.

4 A. No.

5 Q. Did you and Kevin get along?

6 A. I will say yes.

7 Q. You will say yes or yes?

8 A. Yes, ma'am.

9 Q. Thank you.

10 Were you guys friends?

11 A. No.

12 Q. Why not?

13 A. Good question.

14 Q. Just never happened?

15 A. Fellow employee acquaintance.

16 Q. Do you feel Kevin ever discriminated  
17 against you on the basis of your race?

18 A. I don't remember.

19 Q. You don't remember whether or not he  
20 ever discriminated against you on the basis of  
21 your race?

22 A. I want to say no. No.

23 Q. So no, he did not ever discriminate  
24 against you on the basis of your race?

1 A. Yeah.

2 Q. Is that correct?

3 A. Correct.

4 Q. To your knowledge, Kevin was not  
5 involved in the decision to terminate your  
6 employment; is that correct?

7 A. I don't know.

8 Q. Would Kevin have had the authority to  
9 do that?

10 A. No.

11 Q. Do you know who Alicia Coviello is?

12 A. Yes.

13 Q. Who is she?

14 A. A girl that works at Sears.

15 Q. Do you know what her job title was at  
16 Sears?

17 A. No.

18 Q. Did she work in the automotive  
19 department?

20 A. No.

21 Q. How did you know Alicia?

22 A. Court.

23 Q. Could you be more specific?

24 A. Appear for a citation that was issued.

1 before Alicia, and she gave it to me with no  
2 hassle.

3 Q. But you don't, as you sit here today,  
4 remember why Alicia wouldn't give you your last  
5 paycheck; is that correct?

6 A. Correct.

7 Q. To your knowledge, was Alicia in a  
8 position to hire or fire you?

9 A. I honestly don't know. She's loss  
10 prevention. She wasn't in management, I don't  
11 think. I don't know nothing about her. All I  
12 know is loss prevention.

13 Q. Do you know whether or not loss  
14 prevention had any authority to hire or fire  
15 employees?

16 A. Don't know.

17 Q. Did Alicia ever discriminate against  
18 you on the basis of your race?

19 A. I don't know.

20 Q. You don't know if she ever  
21 discriminated against you on the basis of your  
22 race?

23 A. I don't know.

24 Q. That one time you spoke to her, that's

1 the first time you met her; is that correct?

2 A. Other than we had to appear in court  
3 for that citation.

4 Q. Other than --

5 A. We didn't share no words.

6 Q. Other than appearing in court, the  
7 only time you ever spoke to her was after your  
8 termination when you went to get your paycheck;  
9 is that correct?

10 A. Correct.

11 Q. Do you know who Barbara Tagliarino is?

12 A. Barbara rings a bell.

13 Q. Do you know who she is?

14 A. I want to say the manager in charge of  
15 the whole Sears operation.

16 Q. Have you ever met her?

17 A. Termination day, yes.

18 Q. When you say you want to say she's the  
19 manager, do you believe she is the manager or do  
20 you want to say she is the manager?

21 A. I want to say she's the manager.

22 Q. But you don't know for sure?

23 A. No.

24 Q. Is Barbara Tagliarino the same Barbara

1 you met with at your termination?

2 A. I'm not familiar with the last name.  
3 The first name is Barbara.

4 Q. You met with a woman named Barbara  
5 when you were terminated?

6 A. Yes.

7 Q. Was anybody else present when you were  
8 terminated?

9 A. Yes, my automotive manager, Anthony,  
10 at the time.

11 Q. Had you ever met Barbara before the  
12 day of your termination?

13 A. No.

14 Q. Do you know what Barbara's job title  
15 was at Sears?

16 A. The woman named Barbara that I knew of  
17 was the general manager of the store.

18 Q. Did Barbara have authority to hire or  
19 fire you, to your knowledge?

20 A. I will say yes. The Barbara I know?

21 Q. Yes, the Barbara you know?

22 (Pause)

23 Q. Yes?

24 A. The Barbara that I know of, yeah, the

1 general manager, yes.

2 Q. Prior to the day of your termination  
3 you never spoke with Barbara, the Barbara you  
4 knew?

5 A. The Barbara that's -- after the  
6 termination?

7 Q. Prior to your termination, you never  
8 spoke with Barbara; is that correct?

9 A. Yes.

10 Q. The Barbara employed by Sears that  
11 we're discussing?

12 A. Explain that again.

13 Q. Prior to the day of your termination,  
14 is it correct that you never spoke with Barbara?

15 A. Yeah.

16 Q. Did you speak with Barbara after your  
17 termination?

18 A. No.

19 Q. So that conversation you had in which  
20 you were terminated is the only time you ever  
21 spoke with Barbara?

22 A. Correct.

23 Q. Did Barbara ever discriminate against  
24 you on the basis of your race?



1 A. Not that I know of.

2 Q. Do you know who Richard Spellman is?

3 A. No, I don't.

4 Q. Do you know if he's employed by Sears?

5 A. I don't know.

6 Q. Do you know who Anthony Cieri is?

7 A. No. I know Anthony, my manager

8 Anthony, but I don't know if that's the same

9 Anthony.

10 Q. Your manager Anthony, do you know what  
11 his job title is?

12 A. Shop manager.

13 Q. And he managed the automotive shop  
14 when you worked --

15 A. Yes.

16 Q. -- at Sears?

17 A. Yes.

18 Q. If you can let me finish my question  
19 even though you know what it's going to be so  
20 she can record it.

21 A. I apologize.

22 Q. That's okay.

23 A. It slipped my mind.

24 Q. It does mine all the time. Don't

1 worry.

2 Did you get along with Anthony?

3 A. I'd say we had a good relation until  
4 the termination.

5 Q. How frequently did you see Anthony  
6 while you were employed at Sears?

7 A. When we worked the same -- when he --  
8 when we worked the same schedule.

9 Q. To your knowledge, did Anthony have  
10 the authority to terminate your employment at  
11 Sears?

12 A. Yes.

13 Q. Did Anthony ever discriminate against  
14 you on the basis of your race?

15 A. Not that I know of.

16 Q. Do you know who Jose Hernandez is?

17 A. Yes.

18 Q. Who is he?

19 A. A fellow employee.

20 Q. When you were employed at Sears?

21 A. When I was employed at Sears.

22 Q. Did you and Jose get along?

23 A. Yes.

24 Q. Was Jose a supervisor or was he the

1 A. Why did I get terminated.

2 Q. When did you talk to John about why  
3 you got terminated?

4 A. The day I returned his pickup truck  
5 that he let me borrow.

6 Q. When did you return the pickup truck?

7 A. The day of termination.

8 Q. Do you remember what day you were  
9 terminated?

10 A. No. I don't remember.

11 Q. During the course of your appointment  
12 at Sears, do you remember if anybody  
13 discriminated against you on the basis of your  
14 race, or do you know if anybody discriminated  
15 against you on the basis of your race?

16 A. Yes.

17 Q. Who?

18 A. A man named Sal, Sal something.

19 Q. Do you remember his last name?

20 A. No, I don't.

21 Q. Do you remember what his job title was  
22 at Sears?

23 A. Service writer.

24 Q. So he had the same job title as Kevin

1 Sullivan?

2 A. Yes.

3 Q. How did Sal discriminate against you?

4 A. He came at me one day angry and he  
5 told me to go back to Cambodia you fucking Gook.

6 Q. Those are the exact words he used?

7 A. Yes.

8 Q. Why was he angry at you?

9 A. Because I didn't do something that I  
10 wasn't supposed to do. No. Let me rephrase  
11 that. He expected me to do something that was  
12 out of my job title.

13 Q. What did he expect you to do?

14 A. Go to the warehouse and grab a tire  
15 when a sales writer is supposed to do it.

16 Q. Go to the warehouse and grab a tire,  
17 you said?

18 A. Yes.

19 Q. Where is the warehouse?

20 A. Downstairs underneath -- under the  
21 automotive center.

22 Q. And did Sal ask you to do that?

23 A. Yes. But I was busy myself.

24 Q. Was Sal a supervisor?

1 Q. Was it shortly after the racial slur?

2 A. Yeah.

3 Q. The same day?

4 A. No.

5 Q. Was it within a week?

6 A. Somewhere in that time frame, I guess.

7 Q. Did you speak with anybody else at  
8 Sears about the comment that Sal made to you?

9 A. I don't remember.

10 Q. Do you remember when this happened,  
11 Sal's comment to you?

12 A. Sometime during my employment.

13 Q. Do you remember how far into your  
14 employment it was?

15 A. I don't remember.

16 Q. Was it more than six months into your  
17 employment?

18 A. I honestly don't remember.

19 Q. Do you remember if it was more than a  
20 year into your employment?

21 A. I don't remember.

22 Q. And you don't remember telling anybody  
23 else at Sears about the comment Sal made to you?

24 A. Yeah.

1 remember the date?

2 A. No, I don't.

3 Q. Do you remember the month you were  
4 terminated?

5 A. I don't remember.

6 Q. You testified earlier that Barbara and  
7 Anthony were the only two people that were  
8 present when you were terminated; is that  
9 correct?

10 A. Correct.

11 Q. What reason were you given for your  
12 termination?

13 A. I don't know.

14 Q. You don't remember?

15 A. I don't remember. Exact written  
16 reason?

17 Q. Any reason. What reason were you  
18 given for your termination?

19 A. At this point, I don't remember.

20 Q. What were the circumstances  
21 surrounding your termination?

22 A. Swearing.

23 Q. Swearing at whom?

24 A. Not me. Another employee.

1 Q. Some other employee swore?

2 A. Mm-hmm.

3 Q. But you were terminated for it?

4 A. Yeah.

5 Q. What's the other employees name that  
6 swore?

7 A. I don't remember.

8 Q. Who did the other employee supposedly  
9 swear at?

10 A. A customer.

11 Q. And you never swore at that customer?

12 A. No.

13 Q. Had you ever been reprimanded for  
14 swearing prior to that incident?

15 A. I don't remember.

16 Q. When you say Barbara and Anthony were  
17 the only two people present when you were  
18 terminated, where was it when you were  
19 officially terminated? Were you in Barbara's  
20 office or Anthony's office?

21 A. Barbara's office.

22 Q. Was it at the end of a shift that you  
23 were called in to Barbara's office?

24 A. No.

1 what.

2 A. Okay.

3 Q. So you walk into her office, and what  
4 happens next?

5 A. From what I remember, it's, Have a  
6 seat.

7 Q. Who says, Have a seat?

8 A. Barbara says, Have a seat.

9 Q. Okay.

10 A. You're terminated.

11 Q. Barbara says, You're terminated?

12 A. She didn't even -- she didn't even  
13 allow me to explain myself. She just basically  
14 said, You're terminated. Go. Get off the  
15 property.

16 Q. Did you want to explain yourself?

17 A. Oh, yes.

18 Q. What were you going to say if you were  
19 given an opportunity to explain yourself?

20 A. It wasn't me.

21 Q. Did you tell Anthony it wasn't you?

22 A. Yes.

23 Q. What did Anthony say?

24 A. He told me that the customer said it



1 was me.

2 Q. What did you say when he told you that  
3 the customer said it was you?

4 A. I asked him to pull the other  
5 technician in.

6 Q. Who was the other technician?

7 A. I don't remember his name.

8 Q. Did he pull the other technician in?

9 A. I don't think he was on schedule. I  
10 could be wrong though?

11 Q. But as you sit here today, you don't  
12 remember that he was working that day, the other  
13 technician?

14 A. Yes.

15 Q. Had you been reprimanded or warned for  
16 swearing at a customer prior to that incident?

17 A. I don't remember.

18 MS. TRAN: I'm going to have these  
19 marked as 5, 6, 7 and 8.

20 (Exhibits 5 through 8 marked  
21 for identification)

22 Q. I'm going to show you what's been  
23 marked as Exhibit No. 8. Just take a minute to  
24 review that and let me know when you're finished

1 reading it.

2 (Pause)

3 Q. Eric, I've shown you what appears to  
4 be a statement signed by a Sears employee. Do  
5 you know whose signature that is on the bottom  
6 of the statement?

7 A. I know it says Andy.

8 Q. Did you know anybody named Andy that  
9 worked with you when you worked at Sears?

10 A. Yeah, a fellow employee.

11 Q. What was Andy's last name, do you  
12 know?

13 A. I honestly don't know.

14 Q. Was it Andy DiGaetono?

15 A. That rings a bell.

16 Q. Does that look like it's Andy  
17 DiGaetono's signature?

18 A. I don't know what he signs like.

19 Q. But it looks like that's what it says  
20 at the bottom of the page?

21 A. Yes.

22 Q. And this is dated October 15, 2003; is  
23 that correct?

24 A. Yes.

1 Q. And the statement talks about an  
2 incident with a customer that occurred on  
3 October 14, 2003; is that correct?

4 A. From what I see, correct.

5 Q. Is this the incident that you were  
6 talking about a moment ago in which another  
7 fellow employee swore at a customer?

8 A. Yes.

9 Q. Reading down on the statement, it  
10 says, A customer came in last night, 10/14/03,  
11 for a flat repair. Tire could not be repaired.  
12 G. Caleo notified customer that tire could not  
13 be repaired. Customer and G. Caleo had argument  
14 about purchase a new tire.

15 Is G. Caleo the person that was  
16 involved with the swearing with the customer?

17 A. I don't know.

18 Q. Next it says, Frank could not repair  
19 tire. Frank said the F word out loud.

20 Is Frank the other employee that was  
21 involved?

22 A. Yes. That rings a bell. Frank rings  
23 a bell.

24 Q. Is Frank the other employee that was

1 that signature out.

2 Q. On the bottom of the first page --  
3 obviously it's cut off -- but you don't know  
4 whose signature that is either?

5 A. I have no idea.

6 Q. Did you at any time tell Ms. Lacroix,  
7 who is the customer that's named in these pages,  
8 did you at any time swear at her as she stated  
9 you did?

10 A. No, I didn't.

11 Q. Did Frank swear at her?

12 A. Yes, he did.

13 Q. When you said that the statements were  
14 false, what did you mean by that?

15 A. The statement says that I swore at  
16 her, which I didn't.

17 Q. Which statement?

18 A. Both of them, right?

19 Q. Right. What's false about them? Is  
20 it that the substance of the statements is false  
21 or that whoever wrote them wrote them falsely?  
22 Take them one at a time.

23 The first page of Exhibit 7, the one  
24 that's dated October 14, 2003, okay?

1 Q. Do you remember if you were ever  
2 reprimanded by Sears for swearing other than the  
3 time you were terminated as a result of the  
4 incident on October 14?

5 A. I want to say yeah, but I don't  
6 remember, honestly. You asked me a question  
7 like that before. I didn't remember.

8 Q. So you think so, but you don't  
9 remember; is that correct?

10 A. I remember I had to do a written  
11 statement for something, but I don't remember  
12 what it was for.

13 Q. I'm going to show you what's been  
14 marked as Exhibit No. 5. Take a minute to look  
15 at it.

16 A. I remember this now (indicating).

17 Q. And is that your signature on the  
18 bottom of that page?

19 A. Yes, it is.

20 Q. Whose signature is below yours?

21 A. I have no clue.

22 Q. What's the date on the signature below  
23 yours?

24 A. 10 -- October 2, '03.

1 Q. This is a statement that says, Eric  
2 Souvannakane -- is that how you pronounce your  
3 last name?

4 A. No, Souvannakane. It's ain't as hard  
5 as it looks.

6 Q. It says, Eric Souvannakane has been  
7 given a final warning per Barbara Tagliarino for  
8 the incident that occurred with customer on  
9 September 29, 2003.

10 Is that an accurate reading of that  
11 statement?

12 A. I'd say so, yes.

13 Q. Do you remember the incident that  
14 occurred on September 29, 2003?

15 A. I remember now, yes.

16 Q. What was that incident?

17 A. An upset customer that -- yeah,  
18 another racial -- something else, another racial  
19 thing.

20 Q. What was it?

21 A. An upset customer, just upset.

22 Q. Can you be more specific as to the  
23 details?

24 A. I guess --

1 Q. I need you to be certain, so don't  
2 guess. Just tell me what you remember  
3 happening.

4 A. To the best of my knowledge, I'll  
5 break it down for you. In the morning time I  
6 guess another technician serviced this  
7 customer's vehicle, but I guess they put on the  
8 wrong tires.

9 Q. This is on September 29?

10 A. I don't remember. But if it was  
11 September 29, I'm assuming it was September 29.

12 Q. You have no reason to think it wasn't  
13 September 29?

14 A. I don't know. I don't remember. But  
15 if it says right there in black and blue, I  
16 guess so.

17 Q. So what happened?

18 A. It could be a 4.

19 Q. What happened next?

20 A. A customer dropped off their vehicle.  
21 Another technician, I guess, did some service to  
22 it, but I guess they put on the wrong tires.  
23 And that technician left. This customer dropped  
24 off the vehicle. And I came to do my shift in

1 the afternoon and the customer was there to pick  
2 up the vehicle. The customer complained to the  
3 manager. The manager came at me, Can you solve  
4 this problem for me? And the customer is still  
5 upset. So I said, Yeah, sure.

6 I took the vehicle in and corrected,  
7 started to correct the problem while this upset  
8 customer was waiting by his vehicle just upset  
9 and obnoxious. And I remember he called me a  
10 Chink. He swore at me. That was it. And the  
11 customer complained.

12 Q. What did you say?

13 A. I shouldn't have, but I know I swore  
14 back at him.

15 Q. Did you swear at him?

16 A. Yes, after he called me a Chink  
17 though.

18 Q. When you said a manager came to you  
19 and asked you if you could correct the problem,  
20 by problem, you mean put the right tires on the  
21 car?

22 A. To the best of my knowledge, that's  
23 what I remember. It was tire work.

24 Q. Something was wrong with the tires,



1 swore at her?

2 A. From what this document says, that's  
3 what it looks like.

4 Q. By "this document," we're referring to  
5 the second page of Exhibit 7?

6 A. Second page of Exhibit No. 7.

7 Q. And as a result of the incident with  
8 this customer on October 14, 2003, you were  
9 terminated, your employment at Sears was  
10 terminated; is that correct?

11 A. I was terminated for this incident,  
12 yes.

13 Q. And your termination occurred on  
14 October 16, 2003, two days after that swearing  
15 incident?

16 A. Is that right?

17 Q. I'm asking you.

18 A. I don't remember.

19 Q. But you have no reason to think  
20 October 16 wasn't the day that you were  
21 terminated?

22 A. It's a possibility, correct.

23 Q. It's your understanding that you were  
24 terminated because of that swearing incident on

1 October 14; is that correct?

2 A. I believe so, which I didn't swear  
3 though.

4 Q. Right. What I'm asking you is, is it  
5 your understanding that you were terminated as a  
6 result of that incident? I'm not asking whether  
7 or not you swore at her. I'm simply asking is  
8 it your understanding that your employment at  
9 Sears was terminated as a result of that  
10 incident on October 13, 2003?

11 A. Correct.

12 MS. TRAN: Why don't we take a lunch  
13 break now because it's a good time.

14 (Lunch recess taken)

15 BY MS. TRAN:

16 Q. Eric, shortly after your termination  
17 from Sears, is it your understanding that there  
18 was an oil spill at Sears?

19 A. I was informed of.

20 Q. You were informed that there was an  
21 oil spill at Sears?

22 A. Yeah, the citation (indicating).

23 Q. When were you informed of it?

24 A. When I received the citation.

1 Q. From whom did you receive the  
2 citation?

3 A. In the mail.

4 Q. That's the first time that you heard  
5 of the oil spill?

6 A. Correct.

7 Q. Do you remember how long after your  
8 termination you received the citation?

9 A. No, I don't remember.

10 Q. Do you know when the oil spill  
11 occurred?

12 A. No.

13 Q. Do you know how much oil was spilled?

14 A. No.

15 Q. Do you know any of the circumstances  
16 surrounding the oil spill?

17 A. I don't understand.

18 Q. Do you know how the oil was spilled,  
19 how it was cleaned up?

20 A. Oh, no.

21 Q. You don't have any knowledge of how it  
22 was spilled or how it was cleaned or when the  
23 spill occurred?

24 A. No.

1 Q. You said that you had to return a  
2 pickup truck to John Baldi, Jr., the day you  
3 were terminated; is that correct?

4 A. Correct.

5 Q. Where did you return that truck to  
6 him?

7 A. Sears.

8 Q. The Sears in Saugus?

9 A. Yes.

10 Q. Did you go inside the Sears that  
11 night?

12 A. To give him the keys and to check out  
13 my toolbox, yes.

14 Q. And this is after you had been  
15 terminated?

16 A. Correct.

17 Q. You said you went into the Sears. And  
18 by going into the Sears, you mean the Sears  
19 Automotive Center?

20 A. Correct.

21 Q. And you went in to give him the keys?

22 A. Correct.

23 Q. "Him" being John Baldi, Jr.?

24 A. Yes.

1 Q. And you also did what?

2 A. Check on my toolbox.

3 Q. What do you mean by check on your  
4 toolbox?

5 A. When I was employed at Sears, I had a  
6 toolbox there where I kept my tools. And when I  
7 got terminated, I left it there. I didn't take  
8 it with me because I had no means of  
9 transportation. That is one of the reasons why  
10 I borrowed the pickup truck from John.

11 Q. You borrowed the pickup truck to  
12 remove your tools?

13 A. To remove belongings from my house.

14 Q. Remove what belongings from your  
15 house?

16 A. I was moving that day.

17 Q. You were moving into a new apartment?

18 A. Correct.

19 Q. Where were you moving to?

20 A. Autumn Street.

21 Q. I'm sorry, what was that?

22 A. 39 Autumn Street.

23 Q. In what city?

24 A. Lynn, Mass.

1 A. Correct.

2 Q. Is it a single apartment?

3 A. Yes, it is.

4 Q. How many bedrooms?

5 A. It's two bedrooms.

6 Q. So do you, your daughter and your  
7 girlfriend all share the same bedroom?

8 A. Correct.

9 Q. Getting back to the night of your  
10 termination, after you returned the keys to John  
11 Baldi, Jr., and checked on your toolbox, what  
12 did you do?

13 A. There was a lot of trash in my  
14 toolbox, so I swept that out. And there was an  
15 oil thing next to my toolbox, so I pushed that  
16 out of the way.

17 Q. What do you mean by "oil thing"?

18 A. An oil container.

19 Q. How big was the oil container?

20 A. It sits in a gallon, and there's a  
21 nozzle that shoots straight up so you can dump  
22 the oil in. To be honest, I don't even know.

23 Q. Is it a gallon? Is it a barrel of  
24 oil, when you say an oil container?

1 A. Maybe a gallon or two.

2 Q. It holds a gallon or two or there was  
3 a gallon or two of oil in there?

4 A. I don't know how much was in there.  
5 It holds a gallon or two.

6 Q. Is it the size of an oil barrel or an  
7 oil drum or is it smaller than that?

8 A. Smaller than that.

9 Q. Is it on wheels?

10 A. Yes, it's on wheels.

11 Q. Is it like a tray?

12 A. What do you mean by tray?

13 Q. Is it a tray that holds oil? What  
14 does the container look like?

15 A. Like, you know the Poland Spring  
16 refill bottles that you put on the machine?

17 Q. The ones that go into the water  
18 dispensers?

19 A. Yes, exactly like that that's sitting  
20 upright, and there's a long shaft that sticks up  
21 and a big funnel.

22 Q. A big funnel that goes into the top of  
23 the container?

24 A. Yes.

1 Q. Okay. So you pushed that out of the  
2 way. What did you do next?

3 A. As I pushed that oil dispenser, it  
4 tripped over a lift and it fell. So I turned  
5 around quickly and I seen that it fell and oil  
6 was spilling.

7 Q. Yes.

8 A. So I went over there, I picked it up,  
9 and I cleaned up the oil spill.

10 Q. Did you inform anybody at Sears that  
11 you had spilled the oil?

12 A. John Baldi Jr., seen it.

13 Q. Did you inform anybody else?

14 A. That was it.

15 Q. You didn't inform Sears management  
16 that you tripped over the oil?

17 A. No. I cleaned it up. It wasn't much.

18 Q. What happened next?

19 A. I left.

20 Q. Did you see anybody else when you were  
21 there that night?

22 A. Jose was there. He was doing an  
23 alignment.

24 Q. Did you see Jose?



1 A. I think I did.

2 Q. Is this the complaint that you filed  
3 in the lawsuit against Sears?

4 A. Yeah.

5 Q. If you turn to Page 4, Paragraph 19?

6 A. Yes.

7 Q. It says, At closing time on or about  
8 October 16, 2003 management of the automotive  
9 section of the Saugus store observed a spill of  
10 waste oil, paren, less than 30 gallons, close  
11 paren, on the floor of the oil change bay. The  
12 spill was confined to the bay by the lack of  
13 volume in the spill, a drain in the bay floor,  
14 and the slope of the floor towards the drain.

15 Is that an accurate reading of that  
16 paragraph?

17 A. Yeah. You read it correctly.

18 Q. How do you have knowledge about the  
19 oil spill that happened on the evening of  
20 October 16?

21 A. The citation I received in the mail.

22 Q. And the citation said all of these  
23 things that are itemized in Paragraph 19?

24 A. It says destruction of property.

1 Q. So then how do you know that the oil  
2 spill happened on October 16 and that it was  
3 confined to the bay by a lack of volume in the  
4 spill, a drain in the bay floor, and by the  
5 slope of the floor?

6 A. I hired a lawyer.

7 Q. To your knowledge, on what do you base  
8 the facts -- on what do you base this allegation  
9 in the complaint, Paragraph 19?

10 A. Say that again.

11 Q. What facts do you have to support  
12 Paragraph 19 of the complaint?

13 A. I got no facts.

14 Q. So you don't know any of the  
15 circumstances regarding the oil spill that  
16 happened on October 16, is that correct, the one  
17 described in Paragraph 19?

18 A. No.

19 Q. Do you have any facts to support  
20 Paragraph 20 in which you state, Management of  
21 the automotive section made the decision to  
22 leave the spill in place until the following  
23 morning, October 17, 2003, at which time an  
24 employee was assigned to clean up the spill?

1 Paragraph No. 23?

2 A. I have no facts.

3 Q. In Paragraph 25 you state that  
4 defendant Mansfield created a report falsely  
5 stating that the ethnicity of the plaintiff was  
6 unknown, the waste oil had a value of \$3,000 so  
7 the plaintiff could be charged with the felony  
8 of malicious destruction of property over \$250,  
9 and defendant Coviello and a Mr. Jose Hernandez  
10 had witnessed the spill.

11 Is that an accurate reading of that  
12 paragraph?

13 A. You read that accurately.

14 Q. What evidence do you have to suggest  
15 that Officer Mansfield created a false report  
16 stating that the ethnicity of the plaintiff was  
17 unknown?

18 A. The citation.

19 Q. Do you have any reason to believe that  
20 Officer Mansfield knew what your ethnicity was?

21 A. I don't understand that.

22 Q. You allege Officer Mansfield created a  
23 false report and that part of that falseness was  
24 that he wrote that your ethnicity was unknown.

1 Do you understand that?

2 A. Not really.

3 Q. Can you read Paragraph 25 for me to  
4 yourself.

5 A. Ethnicity.

6 Q. What is your understanding of what  
7 ethnicity is?

8 A. I don't understand that question.

9 Q. What is your understanding of the  
10 allegations contained in Paragraph No. 25?

11 A. I don't understand that word.

12 Q. Do you believe Officer Mansfield  
13 created a false police report?

14 A. Yeah, I think so.

15 Q. On what do you base that belief?

16 A. Because I didn't know what the heck  
17 was going on with that citation that they sent  
18 me in the mail.

19 Q. Understanding you didn't know why you  
20 got the citation, on what do you base the belief  
21 that officer Mansfield created a false police  
22 report?

23 A. The citation was for me that I didn't  
24 know nothing about.

1 Q. I don't understand your answer.

2 On what do you base the belief that  
3 Officer Mansfield created a false police report?

4 Very specifically in Paragraph 25 you  
5 allege the police report was false because it  
6 stated that the ethnicity of the plaintiff was  
7 unknown because it stated that the waste oil had  
8 a value of \$3,000 and because it stated that  
9 Coviello and Mr. Jose Hernandez had witnessed  
10 the spill.

11 Have you ever seen a police report  
12 issued by Officer Mansfield that stated those  
13 things?

14 A. I don't remember.

15 Q. As you sit here today, you don't have  
16 any memory of seeing a police report written by  
17 Officer Mansfield that stated those things; is  
18 that correct?

19 A. I don't remember. I might have, but I  
20 don't remember.

21 Q. So do you have any knowledge as to  
22 whether or not Officer Mansfield created a false  
23 report stating these things that you allege in  
24 Paragraph 25?

1 A. I feel it was false.

2 Q. On what do you base your belief that  
3 it's false?

4 A. Because I was getting a citation for  
5 something I didn't do.

6 Q. Okay.

7 A. I don't understand.

8 Q. Let's go back to that. Actually, you  
9 know what, let's stay with this.

10 You understand that you filed a  
11 lawsuit against Sears, a bunch of named  
12 defendants, and Officer Mansfield, correct?

13 A. Correct.

14 Q. And you understand that as part of  
15 that lawsuit you've alleged that each of those  
16 people did certain things, correct?

17 A. I guess so.

18 Q. Is that your understanding?

19 A. I don't understand.

20 Q. What don't you understand?

21 A. What are you asking me? If these  
22 people were in the events of that day?

23 Q. No. I'm asking you as a general  
24 matter, you understand that when you filed this

1 lawsuit against Sears, the named defendants, and  
2 Officer Mansfield that you made allegations  
3 about what each of those people did; is that  
4 correct?

5 A. That's correct.

6 Q. One of the things that you've alleged  
7 is that Officer Mansfield created a report  
8 falsely stating that the ethnicity of the  
9 plaintiff was unknown; is that correct?

10 A. Correct.

11 Q. What evidence do you have to support  
12 that?

13 A. I got no evidence, I guess.

14 Q. Thank you.

15 Page 7 of the complaint -- actually,  
16 Page 6, the last paragraph on Page 6 going into  
17 Page 7, paragraphs numbered 32 and 33, can you  
18 read Paragraph 33 to yourself, please, for me.  
19 Let me know when you're done.

20 (Pause)

21 A. To 33 also?

22 Q. Yes.

23 (Pause)

24 Q. All set?

1 rights?

2 A. Some type of document, I guess.

3 Q. Eric, what evidence do you have to  
4 support that they conspired and interfered with  
5 your civil rights?

6 A. None, I guess. I don't know.

7 Q. None, you guess, or none?

8 A. I'm lost right now.

9 Q. Why are you lost?

10 A. I don't know. I don't understand the  
11 question.

12 Q. What don't you understand?

13 A. Like, you keep asking me for  
14 documents.

15 Q. I'm not asking you for documents. I'm  
16 asking you what evidence, what do you know? Do  
17 you have any knowledge or any facts to support  
18 your allegation that those parties listed in  
19 Paragraph 33 conspired and interfered with your  
20 civil rights? What knowledge do you have to  
21 support that allegation?

22 A. The citation I received in the mail.

23 Q. That's the only thing you have to  
24 support the allegation that they conspired and



1 interfered with your civil rights?

2 A. Yes.

3 Q. So on the basis of a citation you  
4 received from the Commonwealth of Massachusetts,  
5 you've determined that the parties listed in  
6 Paragraph No. 33 conspired together to interfere  
7 with your civil rights?

8 A. Yes.

9 Q. Going down to Paragraph No. 36, can  
10 you read that paragraph for me?

11 A. Can I stop and take a break?

12 Q. Absolutely.

13 (Recess taken)

14 BY MS. TRAN:

15 Q. We've been looking at the complaint.  
16 I understand you're not an attorney, and you  
17 didn't draft this document. So if there's any  
18 confusion, please stop me. I'll try to break it  
19 down so that it's a good question.

20 A. You already confused me twice. I  
21 don't know.

22 Q. Going back to Paragraph No. 33?

23 A. Yeah.

24 Q. Do you know of any agreement between

1 Q. That's what they told you?

2 A. Yes.

3 Q. So you were, in fact, provided with an  
4 explanation when you were terminated?

5 A. Basically, yes.

6 Q. Going down to No. 18, can you read  
7 Paragraph 18 for me to yourself.

8 (Pause)

9 Q. All set?

10 A. Yes.

11 Q. In Paragraph 18 the paragraph states,  
12 The plaintiff was fired for something he did not  
13 do, parens, allegedly swore at a customer, close  
14 parens, as a pretext for his dismissal for  
15 racial and ethnic prejudice by defendant Sears  
16 Roebuck & Co., and the management group in  
17 control of the Saugus store.

18 Is that an accurate reading of that  
19 paragraph?

20 A. That's what it says.

21 Q. What evidence do you have to suggest  
22 that you were terminated as a result of your  
23 race?

24 A. The argument with Sal.

1 Q. Aside from that argument with Sal, do  
2 you have any other facts to support the  
3 allegation that you were terminated because of  
4 your race?

5 A. No.

6 Q. I want to talk a little bit about your  
7 prosecution for the malicious destruction of  
8 property. If you turn to Page 5, Paragraph 26,  
9 can you read that paragraph for me to yourself.

10 (Pause)

11 A. Mm-hmm.

12 Q. Then can you also read Paragraph 27  
13 for me which is on Page 6.

14 (Pause)

15 A. Mm-hmm.

16 Q. Those two paragraphs talk about  
17 testimony. Paragraph 26 talks about testimony  
18 bay Alicia Coviello, and 27 talks about a  
19 conversation you had with Jose Hernandez; is  
20 that correct?

21 A. Yes.

22 Q. Did those two things happen on  
23 separate days or the same day?

24 A. The same day.

1 Q. Have you ever spoken with  
2 Officer Mansfield?

3 A. No.

4 Q. Has anybody ever spoken with  
5 Officer Mansfield on your behalf?

6 A. I don't think so.

7 MS. TRAN: I think that's it for me.  
8 John?

9 CROSS EXAMINATION

10 BY MR. CLOHERTY:

11 Q. Good afternoon, Mr. Souvannakane. I'm  
12 John Cloherty. I represent Officer Gary  
13 Mansfield in this lawsuit. I have some  
14 follow-up questions for you.

15 A. Okay.

16 Q. Do you know who Officer Gary Mansfield  
17 is of the Saugus Police Department?

18 A. No, I don't.

19 Q. Have you ever met him in person?

20 A. No, I haven't.

21 Q. Have you ever had any contact with him  
22 before the issuance of the citation that you  
23 received in the mail?

24 A. No, I haven't.

1 Q. I wasn't here earlier when you were  
2 asked about your prior contacts with the police  
3 by Ms. Tran. Did any of those contacts involve  
4 the Saugus Police Department ever arresting you?

5 A. No.

6 Q. So you were never arrested by the  
7 Saugus Police Department or any of its officers  
8 at any time?

9 A. No.

10 Q. Now, you first became aware of the  
11 charges concerning the oil spill by way of a  
12 citation you received in the mail; is that fair  
13 to say?

14 A. Yes, it is fair.

15 Q. I'm going to mark as an exhibit the  
16 defendant's disclosure because co-defense  
17 attorney has already made copies. And among  
18 these documents are various records reproduced  
19 to your attorney. So we'll have them marked and  
20 I'll show them to you.

21 (Exhibit 11 marked  
22 for identification)

23 Q. Showing you, sir, what's been marked  
24 as Exhibit No. 11, and I provided your attorney

1 a copy as well. I suggest to you this is a copy  
2 of the discovery documents we produced to your  
3 attorney in this lawsuit.

4 I want to direct your attention to the  
5 last page of this exhibit.

6 The quality of the copy may be  
7 somewhat poor. Do you recognize that document,  
8 sir?

9 A. I don't remember. Oh, yeah. This is  
10 the citation; isn't it?

11 Q. That's what I'm asking you. Is that  
12 the citation, a copy of the citation you  
13 received in the mail?

14 A. Yes.

15 Q. Or similar to the citation that you  
16 received in the mail, sir?

17 A. I would say similar.

18 Q. When you got that citation, sir, what  
19 was the first thing that you did?

20 A. Questioned myself.

21 Q. Did you speak to anyone in the employ  
22 or formerly in the employ of Sears after you  
23 received that in the mail?

24 A. Not right away, no.

1 A. He told me that they think I did it.

2 Q. And how did you respond to him?

3 A. I didn't agree.

4 Q. Did you tell him you did not do it?

5 A. Yes.

6 Q. What did he say in reply?

7 A. He said, I know you didn't do it.

8 Q. Did he say anything else?

9 A. From there on, no.

10 Q. Did he explain to you why he knew you  
11 did not do it?

12 A. I wasn't there at the time, I guess.

13 Q. Did Mr. Baldi ever tell you he knew  
14 who did cause the oil spill?

15 A. No.

16 Q. Have you ever heard from any source at  
17 any time as to who caused the oil spill that you  
18 were being charged with?

19 A. No.

20 Q. Do you today know who caused that oil  
21 spill that you are being charged with?

22 A. No.

23 Q. Has anyone told you that they know who  
24 caused that oil spill that you were charged

1 with?

2 A. No.

3 Q. Earlier in your testimony you did  
4 testify that you yourself spilled some oil when  
5 you were checking your toolbox; is that correct?

6 A. Correct.

7 Q. Are you contending that there were two  
8 oil spills, one that you caused and then a  
9 separate one that was the subject of a criminal  
10 charge?

11 A. I'm assuming so.

12 Q. Why are you assuming that there were  
13 two different oil spills, and you weren't being  
14 charged for that one next to your toolbox?

15 A. I cleaned it up.

16 Q. How much of a volume of oil was  
17 spilled at that one that you cleaned up?

18 A. It wasn't much, but it was oil on the  
19 ground.

20 Q. What steps did you take to clean up  
21 that oil?

22 A. Right when I noticed that the oil  
23 barrel tipped over, I rushed and picked up the  
24 oil barrel. I went to grab these foam pads that



1 we have that absorbs oil, and that's what I  
2 used.

3 Q. Were you trained in your employment at  
4 Sears or elsewhere on how to deal with oil  
5 spills if that happens?

6 A. Yes.

7 Q. What was your training?

8 A. Oil training.

9 Q. What did they train you to do?

10 A. What to do if you spill oil.

11 Q. What steps did they tell you to take?

12 A. I don't remember. But foam pads was a  
13 good thing though.

14 Q. What did you do after you put down the  
15 foam pads on the oil that spilled?

16 A. I just cleaned them up.

17 Q. Was there a special area to dispose of  
18 those foam pads after a cleanup?

19 A. You wait until it absorbs all the oil,  
20 then you just pick it up and throw it in the oil  
21 wastebasket.

22 Q. And how long did it take to do the  
23 cleanup from the time you had that spill next to  
24 your toolbox?

1 up good though.

2 Q. So based on having cleaned it up, you  
3 do not believe that this citation was for that  
4 oil spill that you cleaned up?

5 A. Yes.

6 Q. Now, did you talk to Mr. Baldi about  
7 Officer Mansfield in particular when you called  
8 him?

9 A. Not necessarily.

10 Q. Did he indicate to you that he knew  
11 Officer Mansfield?

12 A. He's the one that told me about  
13 Officer Mansfield.

14 Q. What did he tell you about  
15 Officer Mansfield?

16 A. That he was down at Sears, Roebuck, I  
17 guess, at the date of the oil spill.

18 Q. What else did he tell you about  
19 Officer Mansfield?

20 A. That he was questioning everybody.

21 Q. Did he tell you anything else about  
22 Officer Mansfield?

23 A. That's all I remember.

24 Q. Did Mr. Baldi, Jr., know who Officer

1 Mansfield was from the day of the oil spill?

2 A. I don't know.

3 Q. He didn't tell you I know

4 Officer Mansfield from around town or anything  
5 like that?

6 A. I don't know.

7 Q. Do you have a memory of him telling  
8 you that he knew Officer Mansfield and who he  
9 was?

10 A. No.

11 Q. Did Mr. Baldi relate to you who  
12 Officer Mansfield spoke to at Sears?

13 A. He just said everyone.

14 Q. Did he include himself as having  
15 spoken to Officer Mansfield?

16 A. Yes.

17 Q. Did he tell you what Mr. Baldi and  
18 Officer Mansfield talked about?

19 A. No.

20 Q. At any point in time after the time  
21 you first spoke to him about the citation, did  
22 Mr. Baldi, Jr., tell you what he and  
23 Officer Mansfield spoke about?

24 A. Yes.

1 Q. Does his father have any connection  
2 with Sears at all?

3 A. No.

4 Q. Had he ever worked there in the past?

5 A. I don't know.

6 Q. Other than Mr. Baldi's statement, are  
7 you aware of anyone else relating to you any  
8 conversations with Officer Mansfield about the  
9 investigation of the oil spill?

10 A. Say that again.

11 Q. Let me ask it a different way.

12 A. I understand. I wasn't focused.

13 Q. Other than Mr. Baldi, Jr., who told  
14 you what Officer Mansfield did to investigate  
15 the oil spill, did anyone else tell you about  
16 Officer Mansfield's actions about the oil spill?

17 A. No.

18 Q. Would you recognize Officer Mansfield  
19 if you saw him today?

20 A. Not from a hole in the wall.

21 Q. You never met him in person?

22 A. Uh-uh.

23 Q. Is that a yes or no?

24 A. No.

1 Q. After you had the citation mailed to  
2 you, did you appear in court in response to that  
3 citation?

4 A. The date on the citation?

5 Q. Yes.

6 A. I showed up in court.

7 Q. You showed up on the date that was  
8 stated on the citation?

9 A. Yes.

10 Q. And there was a hearing on the day  
11 that you showed up?

12 A. Yes, there was.

13 Q. And that hearing was to determine  
14 whether a summons should issue on the criminal  
15 charge, correct?

16 A. I don't remember.

17 Q. There was evidence taken as far as  
18 testimony being given in court that day,  
19 correct?

20 A. I don't remember.

21 Q. Do you remember on the date you showed  
22 up in court whether there were any Sears  
23 employees there that day?

24 A. Yes.

1 Q. Who was there on behalf of Sears?

2 A. Jose Fernandez (sic).

3 Q. Who else?

4 A. You are talking employees, right?

5 Q. Right.

6 A. Just Jose Fernandez (sic).

7 Q. Was Alicia Coviello there that first  
8 day when you showed up in court?

9 A. She was there, too.

10 Q. You don't consider her a Sears  
11 employee?

12 A. I do now.

13 Q. Other than Alicia Coviello and  
14 Mr. Hernandez, were there any other Sears  
15 employees in court that day?

16 A. No.

17 Q. Do you know if Officer Mansfield was  
18 there that day in court?

19 A. I don't think so.

20 Q. Do you know if the Saugus Police  
21 Department has a different officer who appears  
22 for court hearings?

23 A. There was an officer there.

24 Q. But it wasn't Officer Mansfield, was

1 it?

2 A. Not that I know of.

3 Q. Do you know who that officer was that  
4 was in court that day?

5 A. No.

6 Q. Did either Mr. Hernandez or  
7 Ms. Coviello give any sworn statements to the  
8 clerk of the court that day?

9 A. I don't remember.

10 Q. Were you yourself asked to raise your  
11 right hand and swear to tell the truth and give  
12 a statement to the clerk that day?

13 A. I don't remember.

14 Q. Do you recall the case being called  
15 before the clerk that day?

16 A. I don't understand.

17 Q. Do you recall being in court and the  
18 matter coming to the attention of the clerk and  
19 the clerk hearing anything about your case that  
20 day?

21 A. No.

22 Q. Do you know who the clerk was that  
23 day?

24 A. A woman.

1 Q. Is he an attorney?

2 A. No.

3 Q. Do you have any memory today of any  
4 statements or sworn testimony before the clerk  
5 that day at all, that first day that you  
6 appeared in court?

7 A. Ask me that again.

8 Q. Do you have any memory of any sworn  
9 statements being taken by the clerk that first  
10 day you appeared in court?

11 A. I don't remember.

12 Q. Now, you've already testified you  
13 received a citation to appear in court that day,  
14 correct?

15 A. Yes.

16 Q. You were never arrested by  
17 Officer Mansfield, correct?

18 A. Correct.

19 Q. You were never arrested by any member  
20 of the Saugus Police Department about these  
21 charges, correct?

22 A. Correct.

23 Q. You were never held in custody for any  
24 period of time by Officer Mansfield, were you?



1 A. Correct.

2 Q. And you were never detained by  
3 Officer Mansfield and told not to move, were  
4 you?

5 A. Correct.

6 Q. In fact, you've never had any contact  
7 with him whatsoever, have you?

8 A. Correct.

9 Q. Now, the matter after the first day  
10 you appeared on the citation proceeded to other  
11 hearings in Lynn District Court. You said you  
12 appeared three or four times total. Do you  
13 recall that, sir?

14 A. Yes, sir.

15 Q. And among those times was a trial  
16 before a judge of the district court, correct?

17 A. Correct.

18 Q. And at that trial there was testimony  
19 taken, correct?

20 A. Yes, there was.

21 Q. Do you know who testified at the  
22 trial?

23 A. Jose.

24 Q. And did anyone else testify?

1 A. That girl.

2 Q. "That girl" is Alicia Coviello?

3 A. Yes.

4 Q. She testified as well?

5 A. Yes, she did.

6 Q. Did you yourself testify that day?

7 A. Yes.

8 Q. Did anyone else testify on your  
9 behalf?

10 A. My lawyer.

11 Q. Besides your lawyer, did any other  
12 witnesses come forward on your behalf besides  
13 yourself?

14 A. I don't remember.

15 Q. Do you remember the result or the  
16 outcome of that trial, sir?

17 A. Not guilty.

18 Q. Now, in your complaint there's an  
19 allegation that Mr. Hernandez left the courtroom  
20 at one point in time and refused to testify. Do  
21 you recall that, sir?

22 A. Yes, sir.

23 Q. But he did testify at the trial of  
24 your case, correct?

1 A. Yes, he did.

2 Q. So the occasion when he left the  
3 courtroom was when, when did that happen?

4 A. The first time, the citation date.

5 Q. Did you have any discussions with him  
6 about why he was leaving the courtroom?

7 A. Yes.

8 Q. What discussions did you have with  
9 him?

10 A. He came to me first, How you doing,  
11 meet and greet. And from there, What are you  
12 doing here. I asked him, What are you doing  
13 here. And he goes, I'm here for Sears. And  
14 from there he goes, he just walked around real  
15 quick and he comes back at me, You know what,  
16 sorry man, but fuck this lying shit. And he  
17 leaves.

18 Q. Did he say anything else to you?

19 A. That is it.

20 Q. Did you ask him what he meant by "this  
21 lying shit" that he was telling you about?

22 A. No. He said it real quick, and he  
23 left. That was it.

24 Q. Did you have any subsequent

1 conversations with him about what he meant by  
2 that?

3 A. No.

4 Q. Have you ever talked to him since that  
5 date in the courtroom about what he meant?

6 A. No.

7 Q. In fact, after telling you that, he  
8 later did testify in court at your trial,  
9 correct?

10 A. Yes.

11 Q. Was Officer Mansfield present at the  
12 trial, sir?

13 A. I don't believe so.

14 Q. And you didn't have any police officer  
15 witnesses testify at the trial, did they?

16 A. I don't think so. I don't remember,  
17 to be honest with you. I just remember what I'm  
18 telling you.

19 Q. Has anyone ever told you, other than  
20 Mr. Baldi, that they spoke to Officer Mansfield  
21 about this investigation?

22 A. No.

23 Q. Other than Mr. Baldi and what you  
24 testified earlier, have you learned from any

1 other source of Officer Mansfield's conduct  
2 concerning this investigation or this charge?

3 A. Say that one more time.

4 Q. Has any other source, besides  
5 Mr. Baldi, Jr.'s version that you testified  
6 about earlier, told you about what  
7 Officer Mansfield did?

8 A. No.

9 Q. Before this citation was issued, you  
10 already testified you never met with  
11 Officer Mansfield, correct?

12 A. Correct. Unless he was the officer  
13 that was at the citation date, but I don't  
14 recall. I don't remember.

15 Q. I'm saying before the citation date.

16 A. Oh, no.

17 Q. You never met with Officer Mansfield,  
18 correct?

19 A. Correct.

20 Q. Do you have any evidence or reason to  
21 believe that Officer Mansfield knew about your  
22 racial background or your ethnic background?

23 A. Are you asking me if he knew?

24 Q. Yes.

1 A. I don't know.

2 Q. You never knew whether he knew about  
3 your racial or ethnic background, correct?

4 A. Correct.

5 Q. Did anyone ever tell you that they  
6 informed Officer Mansfield about your racial or  
7 ethnic background?

8 A. I don't know.

9 Q. Do you have any evidence from any  
10 other source that they told Officer Mansfield  
11 about your racial or ethnic background?

12 A. No.

13 Q. Now, you're aware that in the charge  
14 that was listed in the citation, the value of  
15 the property was estimated to be in excess of  
16 \$250? Are you aware of that, sir?

17 A. Right now I'm aware of it.

18 Q. That was the basis of the charge,  
19 correct?

20 A. Correct.

21 Q. And do you have any knowledge as to  
22 how Officer Mansfield or the Saugus Police  
23 Department listed this as being a destruction of  
24 property in excess of \$250 in value?

1 Q. Is there anything in this police  
2 report, sir, that indicates to you that there is  
3 an agreement between the Sears employees and  
4 Officer Mansfield to deprive you of your civil  
5 rights?

6 A. Here goes that question again. I  
7 don't remember. I don't understand that  
8 question.

9 Q. I'm just trying to find out what  
10 evidence you have, sir, for your claims against  
11 Officer Mansfield.

12 A. Yes.

13 Q. Do you have any evidence or facts to  
14 support a claim that he agreed or conspired with  
15 the Sears employees to deprive you of your civil  
16 rights?

17 A. Other than the police report, the  
18 citation, but the citation probably don't mean  
19 nothing, right?

20 Q. I'm asking you --

21 A. The police report right here.

22 Q. Where in this police report does it  
23 indicate that there was an agreement between  
24 Officer Mansfield and the Sears employees?

1 A. Offenses.

2 Q. Where are you indicating, sir?

3 A. The offenses. I don't understand.

4 Q. Where it lists the offenses?

5 A. Yeah, offenses, whatever. I don't  
6 understand, sir.

7 Q. Well, other than the police report,  
8 sir, do you have any other evidence that there  
9 was any kind of an agreement between  
10 Officer Mansfield and the Sears employees as it  
11 relates to depriving you of civil rights?

12 A. Not that I recall.

13 Q. Now, you spoke to Mr. Baldi about the  
14 citation that you received shortly after you  
15 received it. Do you recall that testimony, sir?

16 A. Yeah.

17 Q. Did he ever tell you that he was  
18 threatened in any way in his employment for  
19 talking to the Sears officials?

20 A. Yes.

21 Q. What did he tell you about that?

22 A. If he didn't tell them who did it,  
23 they would fire him.

24 Q. Who said that to Mr. Baldi?